

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JASON MCCLAIN,
Plaintiff,

v.

D. SCOTTINI,
Defendant.

Case No. 22-cv-05238-VKD

ORDER OF TRANSFER

Re: Dkt. No. 2

Plaintiff Jason McClain, a state inmate proceeding *pro se*, filed a civil rights complaint under 42 U.S.C. § 1983 against Correctional Officer D. Scottini at California State Prison – Sacramento, where Mr. McClain was previously incarcerated.¹ Dkt. No. 1 at 2. Mr. McClain claims Officer Scottini sexually abused him on June 2, 2022. *Id.* at 3. Because the acts complained of occurred in Sacramento County, which lies within the venue of the Eastern District of California, *see* 28 U.S.C. § 84(b), and because defendant likely resides in that district as well, venue properly lies in the Eastern District of California and not in this district. *See* 28 U.S.C. § 1391(b). This Court has discretion to either dismiss the case for incorrect venue or transfer it to the proper federal court “in the interest of justice.” *See* 28 U.S.C. § 1406(a). The Court concludes that the interest of justice is best served by transfer, and accordingly orders the case TRANSFERRED to the United States District Court for the Eastern District of California.

The Clerk of the Court shall terminate all pending motions and transfer the entire file to the Eastern District of California.

¹ Mr. McClain is currently housed at C.S.P. – Los Angeles County. Dkt. No. 1 at 1.

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IT IS SO ORDERED.

3 Dated: September 15, 2022
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Virginia K. DeMarchi
VIRGINIA K. DEMARCHI
United States Magistrate Judge

United States District Court
Northern District of California

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